



Appeal Decision

Site visit made on 31 July 2025

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th August 2025

Appeal Ref: APP/T5720/W/25/3358470

107 Sherwood Park Road, Mitcham CR4 1NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Ms Helena Pinto against the decision of the Council of the London Borough of Merton.
 - The application Ref is 24/P1669.
 - The development proposed is demolition of the existing garage and the construction of a detached two storey, one bedroom house.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs has been made by Ms Helena Pinto against the Council of the London Borough of Merton. This application is the subject of a separate decision notice.

Preliminary Matters

3. Revised drawings have been submitted that were not with the Council when it determined the planning application leading to the appeal. The revisions are fairly minor and they do not fundamentally change the proposal. No injustice would be caused by considering the revised plans.
4. The appellant has provided a document headed "Agreement to pay fees and to complete a Unilateral Undertaking for small sites contributions and/or Permit-Free Development". Attached to this document is "Small Sites Unilateral Undertaking template" that refers to section 106 of the Act. However, this document is not dated nor signed and it omits various pieces of information such as the appeal site address, the name of the owner and mortgagee. Therefore, I find the planning obligation is incomplete and it could not take effect. Accordingly, it attracts very little weight in my assessment.
5. The Merton Local Plan 2024 (the LP) has been adopted since the Council's decision. This supersedes the Council's Sites and Policies Plan and Policies Map adopted 2014 and Core Planning Strategy 2011. The Council has provided copies of LP policies it considers are relevant. The appellant has had an opportunity to comment on these policies and I have taken them into account. Furthermore, my assessment has been informed by a revised version of the National Planning Policy Framework (the Framework) that has been published since the Council's decision.

Main Issues

6. The main issues are (i) the effect of the development on the character and appearance of the area, (ii) whether it would provide acceptable living conditions for future residents having regard to the amount and quality of the proposed private outdoor space, (iii) the effect of the development on the living conditions for occupants of the host property (No 107) in terms of outlook, (iv) the effect on biodiversity, (v) the effect on street parking and highway and pedestrian safety, and (vi) whether the development would provide acceptable cycle parking facilities.

Reasons

Character and appearance of the area.

7. The appeal property is on a corner plot. It includes a house that faces Sherwood Park Road and its side boundary runs along the pavement edge on Lexden Road. The local area is residential in character. Apart from an occasional exception, most dwellings are similar in design, being 2 storeys high with traditional pitched roofs. Residences tend to adjoin or are positioned close to each other in lines of terraces. They also tend to have fairly long back gardens and those to the rear of No 107 and the adjoining Sherwood Park Road properties can be appreciated from Lexden Road.
8. The appeal site forms the far end of the back garden to No 107 and it currently contains a garage. The proposed dwelling would face onto Lexden Road and it would be located near a bend in the highway. The house would have a noticeable effect on the street scene as it would be seen from Sherwood Park Road and when approaching the site along Lexden Road from either direction. It would also be viewed from the adjoining and nearby properties.
9. The proposed dwelling would be set away from the house at No 107 and it would be separated from the nearest property on Lexden Road (No 1) by a driveway to the rear of Sherwood Park Road properties. The detached dwelling would look unusual amongst the mainly terraced housing. Also, it would stand out and would appear prominent due to its separation from other dwellings.
10. The house would have a dual pitched roof to front and back but rather than leading up to a ridgeline the dwelling would have a small flat roof. Due to its exposed position, the flank elevations of the house and the unusual flat roof would be appreciated from the street. Also, the relatively narrow depth of the plot would be readily apparent from the rear of adjacent properties. This would be uncharacteristic of the relatively long back gardens at most other local residences.
11. The garage to be removed is of no particular architectural merit. The proposed dwelling would add a more interesting frontage onto the street compared to the current situation. However, the house would appear unusually tall given its position at the end of a back garden and near to other single storey outbuildings in the rear gardens of properties facing Sherwood Park Road. Any benefit in terms of replacing the garage would fail to override the harm caused by the unsympathetic and incongruous aspects of the proposal.
12. On the opposite side of the street to the appeal site is a bungalow, which is an unusual style of building in the area. However, it is next to a line of dwellings so it is not unduly prominent in the street scene. As such, the presence of the bungalow

would not justify the uncharacteristic features of the proposal and its detrimental effects on the street scene.

13. For these reasons, I conclude the development would cause harm to the character and appearance of the area. In these respects, it would not accord with policies D3 and D4 of the London Plan 2021 (the LonP) as well as policies D12.1, D12.2 and D12.3 of the LP. Amongst other things, these policies seek to ensure development responds to the existing character of a place and is of high quality design.

Living conditions for future occupants.

14. Part (p) of LP policy D12.3 states that proposals for houses should provide a private amenity space with a minimum area of 50m². Also, it requires a garden of this size to be provided as a single useable regular-shaped space.
15. The proposed house would have garden areas to each side and to the front. The appeal drawing indicates the total outdoor space would measure 33.6 m² and so below the referred to minimum requirement under LP policy D12.3. Moreover, the garden would consist of separate areas on 3 sides of the building rather than a single space of a regular shape. Therefore, the layout of the garden would limit its useability.
16. Part (p) of LP policy D12.3 allows the application of flexibility where it is demonstrated that a site is constrained. However, in this case, the extent of the development plot could be increased through the inclusion of a larger part to the back garden to No 107. As such, it has not been shown that site constraints justifies a garden space below the minimum requirement.
17. The appellant has referred me to planning permissions granted by the Council for residential developments with gardens well below the 50m² requirement. However, limited information has been provided on the factors that led to the Council permitting these schemes. I cannot be certain the circumstances pertaining to these other developments are similar to the current proposal. Also, the existence of other dwellings with substandard garden spaces does not justify granting planning permission for a new dwelling contrary to the provisions of the current LP.
18. The proposal would meet the requirements set out in LonP policy D6 for a minimum garden space of 5m² for 1-2 person dwellings. However, this policy is clear in stating that the standards set out only apply where there are no higher local standards, such as those in LP policy D12.3.
19. Therefore, I conclude the development would provide unacceptable living conditions for occupiers in terms of the amount and quality of the private outdoor space that would be available. In these regards, it would be contrary to LP policy D12.3 and the aim to ensure developments are fit for purpose. The proposal would accord with LonP policy D6 in these respects but given the wording of this policy I attach greater weight to the requirements of LP policy D12.3.

Effect on living conditions at No 107.

20. The side wall of the proposed house would be obvious from the rear windows and back garden of No 107. The development would cause a significant overbearing effect as it would be near to the back garden and it would affect direct views out of No 107's rear windows. The flank wall would create a sense of enclosure as it

would be tall and it would stretch across almost the whole width of No 107's back garden.

21. The Council has not raised concern over the proposal's impact on the outlook from No 1, even though it would lie a similar distance away from the proposed house compared to No 107. However, the development would be seen to the side from No 1's front windows and so direct outward views would be unaffected. The impact of the proposal on the outlook from No 107 would be more obvious and harmful, particularly given the close proximity of the house to No 107's back garden. The fact that the dwelling would be slightly lower than the residence at No 107 would not address the detriment that would be caused.
22. Therefore, I conclude the development would have a harmful effect on living conditions at No 107 in terms of outlook. In these regards it would not accord with part (g) of LP policy D12.3. This seeks to ensure development provides acceptable levels of outlook to occupants of existing properties.

Effect on biodiversity.

23. Schedule 7A of the Town and Country Planning Act 1990 (as amended) introduces a statutory framework for biodiversity net gain (BNG). Unless exempt, the proposed development would be subject to the mandatory BNG condition that requires a BNG of at least 10%.
24. The application form states the BNG condition would not apply as the proposal would be a self-build dwelling. However, there is no effective planning obligation in place to require the proposal to be provided as a self-build residence. Without such an obligation, I cannot be sure the proposal would be exempt from the BNG condition under the terms of the Biodiversity Gain Requirements (Exemptions) Regulations 2024.
25. Article 7(1A) of the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) (DMP) sets out the minimum information that should accompany applications that are subject to the BNG requirement. No completed biodiversity metric calculation tool has been submitted that shows the pre-development biodiversity value of the onsite habitat. This should have been submitted under the terms of the DMP given that there is no planning obligation that requires the proposal to be a self-build dwelling.
26. Moreover, part D of LonP policy G6 states that development proposals should manage impacts on biodiversity and aim to secure BNG. This should be informed by the best possible ecological information and addressed from the start of the development process. The site includes a garage but also space around it that may have a biodiversity value. However, without an assessment of the baseline biodiversity value of the site and how this might be improved through the development, there is significant uncertainty over whether the proposal would meet the BNG aim.
27. Therefore, I conclude the development would have an unacceptable effect on biodiversity. In these regards, it would be contrary to LonP policy G6.

Street parking and highway and pedestrian safety.

28. No private parking is proposed to serve the development. Also, the proposal would remove an existing potential parking space in the form of the garage so as to leave

No 107 with no private parking area. As such, vehicle owning occupants of the proposed house and No 107 would need to park on the street.

29. LP policy T16.4 states that development should manage parking to reduce reliance on car use and support a transition to lower emission vehicles. This approach is in line with policy T6 of the LonP that says parking should be restricted in line with levels of public transport accessibility and connectivity. The same policy requires the application of car parking standards as set out in LonP policy T6.1. The lack of parking as part of the development would accord with these standards as they are expressed as a maximum provision. Also, the proposal would be in line with the aim to manage parking so as to shift emphasis to non-car modes of travel.
30. Unrestricted parking is allowed along significant stretches of Lexden Road and Sherwood Park Road, although there are double yellow lines directly outside the appeal site. As such, there appears to be scope for parking generated by the proposal to be accommodated on local roads.
31. No evidence has been provided on the levels of local street parking. Most of the local residences have no private parking spaces to the front or side and so I would envisage a fairly high demand for roadside parking, especially as there is no local controlled parking zone. My visit can only provide a snapshot in time but I saw parking along most of Lexden Road and Sherwood Park Road, although there were available spaces within a short walking distance from the site.
32. Compared to the existing situation, it is fair to expect the proposal would slightly increase demand for roadside parking. However, there is little explanation from the Council on how it considers additional parking would obstruct the free flow of traffic so as to prejudice highway safety. Even with vehicles parked on both sides, the width of Sherwood Park Road allows cars to pass. Lexden Road is narrower and cars are unable to pass when there is parking on both sides of the street. Even so, it appears to be lightly trafficked and apart from the bend near the appeal site it is fairly straight. Good forward visibility enables drivers to wait at a space to allow passing and without causing an unsafe obstruction to traffic flows. As such, I fail to see how a minor increase in roadside parking as a result of the development would materially affect the flow of traffic along the local roads.
33. For these reasons, I conclude the lack of private parking facilities to serve the development and No 107 would be acceptable and that street parking generated by the proposal would not prejudice highway or pedestrian safety. In these regards, the development would accord with LonP policy T6 and LP policies T16.1, T16.3 and T16.4. Amongst other things these look to ensure parking is managed to reduce reliance on car travel and to ensure safe streets.

Cycle parking.

34. Under LonP policy T5 there is a requirement for the development to provide 2 cycle parking spaces. The amended plans show the provision of a cycle store to the side of the proposed house. To gain access to this store would require walking along the gap between the side of the house and the boundary fence. However, the Council has not sought to dispute the appellant's claims that the gap as shown on the amended drawings would be wide enough to allow the easy movement of cycles to and from the store. Indeed, it would seem the passageway would comply with guidelines referred to by the Council that require an access to cycle parking areas to be at least 1.2m wide.

35. Therefore, I conclude the proposal would provide satisfactory cycle parking facilities. As such, it would accord with LonP policy T5 and LP policy T16.2.

Other Considerations and Planning Balance

36. For the reasons set out under the first 4 main issues, the proposal would be contrary to the development plan when read as a whole. It follows to consider whether any other factors justify granting planning permission.
37. The appellant's Design and Access Statement claims the Council is unable to demonstrate a 5 years' supply of housing land as required under the terms of the Framework. If this is correct, paragraph 11(d) of the Framework is engaged. Under sub-paragraph 11(d)(ii) there is a requirement to consider whether the harm caused by the proposal would significantly and demonstrably outweigh the benefits of the scheme having regard to the Framework as a whole.
38. Residential gardens in built-up areas such as the appeal site do not constitute previously developed land as defined under the terms of the Framework. Even so, the proposal would make a more efficient use of land in an urban area where housing would be acceptable in general terms. Also, the proposal would represent the development of a small site and so it is likely to be delivered fairly quickly so as to boost the supply of new homes. These are significant benefits, even though the proposal would introduce only a single additional dwelling.
39. At the same time, the development would be unsympathetic to local character and it would not help create places with a high standard of amenity for existing and future occupiers. As such, it would not be well-designed and so paragraph 139 of the Framework says it should be refused. The harm identified in terms of biodiversity is a minor concern that is outweighed by the benefits of the scheme. However, the harm deriving from the design of the proposal as identified under the first 3 main issues is of considerable weight. This detriment would significantly and demonstrably outweigh the benefit of the scheme. Therefore, the presumption in favour of sustainable development as set out in paragraph 11(d) of the Framework does not apply. Accordingly, I find there is insufficient grounds to justify granting planning permission contrary to the provisions of the development plan.

Conclusion

40. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR